

United States Environmental Protection Agency
Region 5

IN THE MATTER OF:)	
)	
Perrigo Company)	FINDING OF VIOLATION
Allegan, Michigan)	
)	EPA-5-04-MI-05
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Perrigo Company (Perrigo) has violated Section 608 of the Clean Air Act (Act), 42 U.S.C. § 7471g. Specifically, Perrigo has violated the Protection of Stratospheric Ozone Standards at 40 C.F.R. Part 82, Subpart F, Recycling and Emissions Reduction, as follows:

Regulatory Authority

1. The Stratospheric Ozone Standards, Subpart F, apply to any person servicing, maintaining, repairing, or owning an "appliance", as that term is defined at 40 C.F.R. § 82.152.
2. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.152, define "industrial process refrigeration" as complex customized appliances used in the chemical, pharmaceutical, petrochemical and manufacturing industries. These appliances are directly linked to the industrial process.
3. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(2), require that an owner or operator of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant must have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a twelve month period.

4. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(5), require that an owner or operator of comfort cooling equipment normally containing more than 50 pounds of refrigerant must have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 15 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 15 percent during a twelve month period.
5. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(9), require that an owner or operator of industrial process refrigeration equipment must repair leaks pursuant to 40 C.F.R. § 82.156(i)(2) within 30 days after discovery of the leak.
6. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment perform an initial verification at the conclusion of repair efforts.
7. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment perform a follow-up verification test within 30 days to ensure that repairs have been successful.
8. The Stratospheric Ozone Standards, at 40 C.F.R. §§ 82.156(i)(3)(ii) and 82.156(i)(6), state that a one-year retrofit and retirement plan must be developed within 30 days of a failed follow-up verification test. The plan must be kept at the site of the appliance.
9. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3)(ii), require that an owner or operator must retrofit or replace industrial process refrigeration equipment within one year after a follow-up verification test showed that the repairs had not been successful.
10. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3)(iii), require that an owner or operator of industrial process refrigeration equipment that fails a follow-up verification test must notify U.S. EPA within 30 days of the failed follow-up verification test.
11. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.166(k), require that an owner or operator of appliances normally containing 50 or more pounds of refrigerant keep servicing records documenting the date and type of service, as well as

the quantity of refrigerant added. The owner or operator must also keep records of refrigerant purchased and added to such appliances in cases where owners add their own refrigerant.

12. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.166(n), require that an owner or operator of appliances maintain on site and report to U.S. EPA the following information for all leaks that require repair under 40 C.F.R. § 82.156(i)(2) and (i)(5): identification of the facility; the leak rate; the method used to determine the leak rate and full charge; the date a leak rate of greater than the allowable annual leak rate was discovered; the location of leaks(s) to the extent determined to date; and any repair work that has been completed thus far and the date that work was completed.

Finding of Facts

13. Perrigo owns and operates a pharmaceutical plant at 515 Eastern Avenue, Allegan, Michigan (Facility). This plant contains industrial process and comfort cooling refrigeration units with a normal charge of over 50 pounds.
14. The industrial process refrigeration units PLT-879, PLT-305, PLT-088, PLT-364, PLT-505, PLT-198, PLT-1587, PLT-686, and PLT-1738 use the class II refrigerant R-22.
15. The comfort cooling units PLT-1518, and PLT-3218 use the class II refrigerant R-22.
16. The industrial process refrigeration units and comfort cooling units referenced above experienced leaks resulting in loss of R-22 during the time between May 4, 2000 and June 3, 2003.
17. Repairs performed by Perrigo on June 21, 2000 and June 13, 2001 did not result in the annual leak rate of unit PLT-879 being returned to below 35 percent.
18. Perrigo failed to perform initial verification tests at the conclusion of repair efforts made on the following units on the following dates:
 - A. PLT-879
 - i. June 21, 2000
 - ii. June 13, 2001
 - iii. June 3, 2003

- B. PLT-305
 - i. July 11, 2002
- C. PLT-088
 - i. June 8, 2001
 - ii. June 19, 2001
- D. PLT-364
 - i. August 6, 2002
- E. PLT-505
 - i. April 28, 2003
- F. PLT-198
 - i. July 18, 2002
- G. PLT-1587
 - i. January 31, 2003
 - ii. February 14, 2003
- H. PLT-1738
 - i. May 7, 2001

19. Perrigo failed to perform follow-up verification tests on the following units by the following dates to verify that the repairs performed were successful:

- A. PLT-879
 - i. July 21, 2000
 - ii. July 13, 2001
 - iii. July 3, 2003
- B. PLT-305
 - i. August 10, 2002
- C. PLT-088
 - ii. July 19, 2001
- D. PLT-364
 - i. September 5, 2002
- E. PLT-505
 - i. May 28, 2003
- F. PLT-198
 - i. August 17, 2002
- G. PLT-1587
 - ii. March 16, 2003
- H. PLT-1738
 - i. June 6, 2001

20. Perrigo did not notify the U.S. EPA after repairs on unit PLT-879 on June 21, 2000 and June 13, 2001 failed to bring the leak rates to below 35 percent.

21. Perrigo did not develop a retrofit or retirement plan for the unit PLT-879 when the repairs performed on June 21, 2000 were unable to bring the leak rate to below 35 percent.

22. Perrigo did not retrofit or retire the unit PLT-879 when the repairs performed on June 21, 2000 were unable to bring the leak rate to below 35 percent.
23. Perrigo did not record the leak rate or the method used to determine the leak rate after leaks were identified on any industrial process refrigeration unit and comfort cooling units during the period from May 9, 2000 to the present.
24. Perrigo failed to record the quantity of refrigerant added when servicing unit PLT-1518 on June 14, 2001; unit PLT-686 on May 11, 2001; and unit PLT-3218 on October 3, 2002.

Violations

25. Perrigo is in violation of 40 C.F.R. § 82.156(i)(2) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to repair leaking appliances such that the annual leak rate is brought below 35 percent.
26. Perrigo is in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to properly conduct initial verification tests at the conclusion of repair efforts.
27. Perrigo is in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to properly conduct follow-up verification tests.
28. Perrigo is in violation of 40 C.F.R. § 82.156(i)(3)(iii) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to notify the U.S. EPA of failed follow-up verification tests.
29. Perrigo is in violation of 40 C.F.R. §§ 82.156(i)(3)(ii) and 82.156(i)(6) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to develop a one-year retrofit and retirement plan for leaking refrigeration equipment following a failed follow-up verification test.
30. Perrigo is in violation of 40 C.F.R. § 82.156(i)(3)(ii) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to retrofit or retire leaking refrigeration equipment following a failed follow-up verification test.
31. Perrigo is in violation of 40 C.F.R. § 82.166(k) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to keep records of the quantity of refrigerant added to an appliance.

Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-04-MI-05, by Certified Mail, Return Receipt Requested, to:

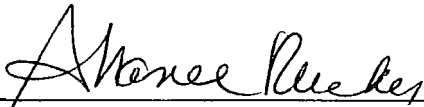
Ms. Corrine L. Kupstas
Director, EHS
L Perrigo Company
117 Water Street
Allegan, Michigan 49010

I also certify that I sent copies of the Finding of Violation by first class mail to:

Tom Hess, Section Supervisor
Compliance and Enforcement
Air Quality Division
Michigan Department of Environmental Quality
525 West Allegan Street
P.O. Box 30260
Lansing, Michigan 48933

Mary Douglas, District Supervisor
Kalamazoo District Office
Michigan Department of Environmental Quality
7953 Adobe Road
Kalamazoo, MI 49009-5026

on the 10 day of December, 2003.


Shanee Rucker, Secretary
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0296 0800